THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.16822 OF 2007

DATED: 09-08-2007

BETWEEN

Md. Hussain Ali,
S/o. Late Mohammad Ali,
R/o. H.No.1-4-836/2,
Behind Great Mosque,
Bholakpur, Hyderabad.

...PETITIONER

AND

National Textile Corporation,
(Andhra Pradesh, Karnataka,
Kerala and Mahe) Limited,
H.No.29/1, 3rd floor,
K.H. Road, Nanjappa Mansion,
Shanthi Nagar, Bangalore,
Rep. by the Chief General Manager
(TECH) and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to set aside the tender notice issued by the National Textile Corporation/first respondent for the sale of land of Netha Spinning Mills, Lower Tank Bund Road, Elechiguda, Secunderabad, Andhra Pradesh to an extent of 2.17 acres of land published in newspapers in July 2007 in pursuance of which tenders will be opened and finalized on 09.08.2007 and also to restrain the first respondent from auctioning the said land.

2. The writ petition has been filed on 06.08.2007. It is the case of the petitioner that the land in Sy.Nos.27 to 32 and other survey numbers of Daira Village to an extent of Ac.33.27 guntas along with some other land to an

extent of Ac.10.07 guntas of Bakaram Village and 4 guntas of land in Gagan Mahal Village, were in the possession of his father, when the Inam Abolition Act was promulgated and these lands were given as Madad-e-maash lands, which were classified as Dastagardan lands. Half of the lands were given to Mutawalli of Jamia Masjid-A-Khalan, Bholakpur for their own use and originally the lands were given through Firman of the King. It is further stated that as per the Firman issued in favour of Mr. Mohd. Ali, with specific order that his descendants may enjoy the same and as per the terms and conditions of the Firman after the death of Mohd. Ali, his sons by name Munawar Ali and Wazir Ali submitted an application to grant succession in their favour and accordingly they succeeded to the estate.

It is further stated that they are his paternal grand fathers.

Wazir Ali did not have any male progeny and had only girls born to him, who also died even before Wazir Ali died and after the death of Wazir Ali, Munawar Ali succeeded to the said land. The said Munawar Ali had a son by name Akbar Ali, who had five sons and two daughters. The eldest son of Akbar Ali is acting as Mutawalli and the petitioner along with his four brothers are hissadars of the said land. It is stated that Muntakab was also issued in favour of his great grand fathers namely, Munawar Ali and Wazir Ali on 19th Shaban 1299 Hijri.

3. It is further stated that on promulgation of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 and on issuance of the Andhra Pradesh (Telangana Area) Abolition of Inams Rules, 1975,

the father of the petitioner, Mohammad Ali, who was Mutawalli at that time, submitted an application in Form – I on 23.03.1975 claiming the land in Sy.Nos.27 to 32 and other survey numbers in Daira Village to an extent of Ac.33.27 guntas along with Ac.10.07 guntas of Bakaram Village and 4 guntas in Gagan Mahal Village, which were in possession of his father.

4. The said claim petition claiming succession to Wazir Ali is pending before the Revenue Divisional Officer (Inam Abolition Court), Hyderabad

vide proceeding No.B/7165 of 1980 wherein one

Mr. Laxma Reddy is the respondent, who filed objection stating that the petitioner's father was never in possession of the said land and that he was neither the owner nor the cultivator at any point of time and that they have no rights to said land. However, the claim petition was only between the father of the petitioner and Laxma Reddy.

The so-called decree said to have been made in favour of Mohammad Ali do not refer to the lands in question in Sy.No.27. After the death of Mohammad Ali, the petitioner is said to have come on record in the pending claim petition before the RDO (Inams Abolition Court), Hyderabad and states that unless the respondents implead themselves and acquires title, they cannot sell away the said land. However, the relationship of the petitioner with the original claimant has not been established.

5. Petitioner is not able to produce any document showing right, title and possession of his father and forefathers. The claim of the petitioner is still pending adjudication before the RDO (Inam Abolition Court) Hyderabad. The tender document goes to show that the first respondent issued the tender notice for the sale of land of Netha Spinning Mills, Lower Tank Bund, Elechiguda, Secunderabad, as it is and where it is basis and the location of the property is Lower Tank Bund Road of Hussain Sagar Lake to an extent of 2.17 acres in Sy.No.27 of Daira, Hyderabad West Taluq with specific boundaries. Therefore, I am of the opinion that as on today the petitioner cannot be said to have any title to the said land and when the respondents have been in continuous possession and enjoyment of the said land for over decades, the question of the respondents impleading themselves in the pending claim petition does not arise. Therefore, the petitioner is not entitled to the relief of setting aside the tender document for the sale of land of Netha Spinning Mills, as admittedly the petitioner's claim to the title appears to have been pending before the RDO (Inams Abolition Court), Hyderabad.

The writ petition is without any merits and it is accordingly dismissed.

There shall be no order as to costs.

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V. ESWARAIAH, J

August 9, 2007
DSK